IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(C).No. 27865 of 2007(P)

PETITIONER:

PREMA DAS P., W/O S.DAS,
'SUDRA' HOUSE, MELMURI, 6TH MILE,
ACHOORANAM P.O., WYNAD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.M.V.BIPIN

RESPONDENTS:

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1. THE FOREST RANGE OFFICER,
KALPETTA RANGE, WYNAD DISTRICT.

2. THE DIVISIONAL FOREST OFFICER,
KALPETTA, WYNAD.

3. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
DEPARTMENT OF FOREST, SECRETARIAT,
THIRUVANANTHAPURAM.

BY SPL. GOVT. PLEADER MR. RENJITH THAMPAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 27865 OF 2007 P
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Dated this the 1st October, 2007

J U D G M E N T

The prayer in this writ petition is to direct the respondents not to prevent the petitioner and her workers from carrying out agricultural activities in the property covered by Exts. P2 to P4 or interfere with their peaceful enjoyment and possession. Petitioner also seeks a direction that her properties covered by Exts. P2 to P4 are not declared as ecologically fragile land.

2. It is the contention of the learned counsel for the writ petitioner that the land has not been notified as an ecologically fragile land, nor has the petitioner been given any intimation thereof. It is also submitted that no demarcation or any kind of survey has been done by any of the respondents and that despite this, the petitioner is prevented from carrying on her normal agricultural activities.

3. A statement has been filed by the Special Govt. Pleader which states that the property in question

having an extent of 4.5725 hectares of land in Re-survey No. 73/1 (Old Sy. No. 124/12C) of Achooranam Village is an ecologically fragile land vested in the Government under Section 3 of the Kerala Forest (Vesting & Management of Ecologically Fragile Lands) Act, 2003. It is stated that out of the aforesaid area only an area of 2.5289 hectares of land can be claimed by the petitioner as per the Village records. It is also stated hat the land was automatically vested in the Government in view of the provisions of the Ordinance which preceded the Act and that such vesting has taken place with effect from 2-6-2000.

4. Thus, the case of the respondents is that an extent of 2.5289 hectares of land belonging to the petitioner has vested as ecologically fragile land. According to the respondents, this area was vested in the Government in view of the provisions contained in the Ordinance which has now been replaced by the aforesaid Act.

5. In the nature of the contentions that are now raised by the respondents in the statement, I do not think it appropriate to express anything on the merits

of the contentions raised by the petitioner. Section 10 of the Act provides for settlement of disputes by the Tribunal and the question as to whether the land is ecologically fragile is also a matter which is to be gone into by the Tribunal. Therefore, the appropriate course open to the petitioner is to approach the Tribunal and without prejudice to that right of the petitioner and leaving open the contentions raised I dispose of this writ petition.

ANTONY DOMINIC
JUDGE

jan/-